

Respondent first contends that it is improper to consider the alleged accident other than the one of March 6, 1995. The record reflects, however, that prior to the preliminary hearing claimant sought to amend this application for hearing to one alleging a series of injuries through March 24, 1995. The evidence produced, thereafter, showed the injuries through March 27, 1995. The Appeals Board considers it appropriate under the circumstances, in this case, to consider the pleadings amended to conform to the evidence. Pyeatt v. Roadway Express, Inc., 243 Kan. 200, 756 P.2d 438 (1988).

Respondent next contends that the evidence did not show that claimant did, in fact, suffer injury through March 27, 1995. From our review of the evidence summarized above, the Appeals Board finds the evidence does establish claimant suffered additional injury through March 27, 1995. The only evidence on the issue is the claimant's own testimony. It does support the contention of injury aggravated through March 27, 1995. Notice given on March 29, 1995, therefore, satisfies the requirements of K.S.A. 44-520.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order of the Administrative Law Judge of August 3, 1995, should be, and the same is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of November 1995.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: George H. Pearson, Topeka, Kansas
Kathryn D. Myers, Topeka, Kansas
James R. Ward, Administrative Law Judge
Philip S. Harness, Director